HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.12727 of 2003

Between:

Boora Narayana
and others

… Petitioners

AND

The Union of India
rep. by its Secretary,
Freedom Fighters Division,
1st Floor, Loknayak Bhavan,
New Delhi and another

… Respondents

ORDER

Counsel for the petitioners : Smt. Hymavathi
for Shri S.Satyam Reddy

Counsel for respondent No.1 : Shri A.Rajashekar Reddy,
Assistant Solicitor General

Counsel for respondent No.2 : Government Pleader for Revenue

03-11-2006

In this petition, the petitioners have prayed for issue of a mandamus to the respondents to consider their claim for grant of pension under Swatantrata Sainik Samman Pension Scheme, 1980 (for short 'the 1980 Scheme').

The claim of the petitioners is founded on the assertions contained in the affidavit of petitioner No.1, Boora Narayana that the petitioners had participated in the freedom struggle; that they fought against the dictatorial rule of the Nizam; that the applications filed by them in 1990 and 1991 for grant of pension under the 1980 Scheme were not processed by the concerned authorities; that even the fresh applications filed in 1998 and 1999 were not considered, and that despite order dated 11-2-1998 passed by the learned Single Judge in Writ Petition No.1070 of 1998 and batch, the respondents have failed to take action for grant of pension to them.

For the sake of convenient reference, the directions given by the learned Single Judge are reproduced below:

> "1) That the respondents are bound to consider all the applications moved before it including the applications moved by the petitioners.
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> 2) That the Government shall consider the possibility of extending the term of the Committee and in case the term of the Committee is extended it shall notify and publicise in all local newspapers, through Radio and Television the last date upto which the Committee will function so that any deserving person who has not applied so far applies. In case the term of the Committee is extended, the applicants shall be given liberty to move the applications directly to the Chairman of the Committee.
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> 3) If the Government decides not to extend the tenure of the Committee, then they shall devise a method for screening the

applications of all applicants who claim that they had participated in the freedom movement in the erstwhile Nizam State of Hyderabad. In this connection, the mode suggested by the committee itself which has been reproduced hereinabove be also taken into consideration. If any other methodology is adopted, that shall also be given wide publicity so that all concerned become aware of such a method, and,

4) The Union of India should also fix reasonable time in which an application made by a person claiming to be freedom fighter for grant of pension should be disposed of."

In the counter affidavit dated 27-08-2006 filed by Shri V.Veeresham, Deputy Secretary to Government of Andhra Pradesh, Revenue Department, it has been averred that the petitioners have not produced any document to substantiate their claim for being treated as freedom fighters and, therefore, they are not entitled to pension under the 1980 Scheme. This is evident from paragraphs 3 to 11 of the counter affidavit of Shri Veeresham which are reproduced below:

"3. The W.P.No.12727/2003 is filed by Sri Boora Narayana and (9) others of Warangal and Nalgonda Districts praying to consider their claims as per the guidelines in W.P.No.1070/98 awarded by Hon. High Court of A.P.

4. The Collector, Warangal District has issued notices to the writ petitioners (except writ petitioner No.2 i.e., Smt. Pasham Yashodamma W/o Late Sri Raji Reddy as she belongs to Nalgonda District) for submission of valid documentary evidence in support of their claim for sanction of Freedom Fighters Pension and conducted enquiry. The Writ Petitioners except Sri Chinnaboina Narayana (Petitioner No.4) have attended before the enquiry on 27-09-2006.They have deposed that, they have participated in the freedom struggle against the Nizam's Government and worked underground under the leadership of their camp-in-charges.

5. In respect of Writ Petitioner No.2 i.e. Smt. Pasham

Yashodamma, W/o Late Raji Reddy, the Collector, Nalgonda District has informed that Smt. Pasham Yashodamma W/o Late Raji Reddy has been called for an enquiry by issuing a notice. In response to the notice, Sri Pasham Amarender Reddy, Son of the writ petitioner has attended the enquiry before the Collector, Nalgonda on 03-10-2006 and submitted an application stating that the required documents have not been submitted earlier and the case was not recommended by the HSSC and that the required documents will be submitted within 10 or 12 days.

6. The Collector, Nalgonda District has further reported that neither writ petitioner Smt. Pasham Yashodamma nor her son Pasham Amarender Reddy have filed required documents till today i.e. 23-10-2006, even after expiry of the time limit taken by the petitioner's son.

7. The verification reports in respect of:

1) Chinnaboina Narayana S/o Komaraiah.
2) Thirunagiri Govardhan S/o Kistaiah; and,
3) Thuruka Kotaiah (Thamutuka) S/o Veeramallu received from the Collector, Warangal District have been examined and forwarded to Government of India recommending for rejection as they have not furnished any documentary proof of evidence as required under the guidelines issued by Government of India under Central Scheme.

8. The following six (6) writ petitioners have deposed during the enquiry that they have submitted applications directly to Government of India for sanction of FF Pension under Central Scheme:-

1) Boora Narayana S/o Ramaiah
2) Gaddam Mallaiah S/o Veeraiah
3) Jangarla Pochaiah S/o Rajamallu
4) Chataraju Ramchandraiah S/o Rajaiah
5) Vem Narsaiah S/o Kommaiah
6) Mangishetti Ilaiah S/o Rajaiah

9. They have not produced any valid documentary evidence as required as per the guidelines issued by the Government of India under SSSPS, 1980.

10. The matter has been considered by the Committee constituted in G.O.Rt.No.1680, Revenue (FF.I) Department, dated 02-08-2006; and, after deliberations, it has been decided to forward to the Government of India the cases of Sri Boora Narayana and (9) others in W.P.No.12727/03 of Warangal District/Nalgonda District recommending rejection for grant of Freedom Fighter Pension under Central Scheme on the ground that the cases of writ petitioners were not recommended by the erstwhile HSSC; as well as, the writ petitioners have not produced valid documentary evidence such as court orders/jail certificates in support of their claims which are required under the guidelines issued by the Government of India under SSSPS, 1980.

11. I humbly submit that the verification reports/deposition in respect of all the above writ petitioners have been forwarded to the Government of India vide letter No.29996/FF.III/03, dated 18-10-2006 (Warangal District) and Lr.No.42508/FF.II(2)/05, dated 23-10-2006 (Nalgonda District) (Copies enclosed) for taking necessary action."

In the context of the aforementioned averments contained in the counter-affidavit filed on behalf of respondent No.2, I enquired from the learned counsel appearing for the petitioners,
Smt. Hymavathi, whether her clients are desirous of filing any document to substantiate their claim to be treated as freedom fighters. To this, the learned counsel replied in negative by saying that they do not have such documents.

Since the petitioners have not produced any material to substantiate their claim that they fall within the definition of 'freedom fighter', their prayer for issue of a mandamus to the respondents to sanction pension under the 1980 Scheme cannot be entertained.

With the above observations, the writ petition is dismissed.

G.S.SINGHVI, CJ

03-11-2006

bsc